

JEFFERSON COUNTY COMMISSIONERS
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TOM LYTHGOE, CHAIR

KEN WEBER

DAVE KIRSCH

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
August 11, 2009**

Present: Commissioners Lythgoe, Weber and Kirsch; Dennis Owens, Deputy County Attorney; Harold Stepper and Mike Hoffman, County Planners; Ed Betka, Rose Bullock, Jackie Colombe, Hap Bullock, Susie Hartman, Katy James, Richard and DeDe Rhodes, Brett and Teresa Nance, Cathy Elliot, James Culbert, Rhandi Rachlis, Bill Norris

REPORTS

Commissioner Lythgoe noted the receipt of Clerk and Recorder's fee report for July.

CORRESPONDENCE

Commissioner Lythgoe read a letter from RMDC regarding a CDBG grant application for the Big Boulder Housing project. They need the Commission to appoint a certifying official. Commissioner Kirsch will follow up on this.

Commissioner Lythgoe noted the receipt of a census form. This is a follow-up to an earlier questionnaire that had been completed. Commissioner Weber stated that he would follow up on this.

Commissioner Lythgoe noted that the County's response to the audit report has been received and accepted by the Department of Administration.

Commissioner Lythgoe noted the receipt of a grant agreement for sheriff's office that requires the signature of the Commission Chair. Commissioner Weber signed the documents, as he was named as the Chair on the documents.

CALENDAR REVIEW

8/12 Fair Board meeting – 6:30
8/13 CTAC – Whitehall – 8:00
Tri-County Fire – Helena – 9:00
Meeting with Solid Waste Supervisor – Montana City – noon
Elkhorn Working Group – Helena – 2:00
Weed Board – 6:30

COMMISSION REPORTS

SOLID WASTE FEES

Commissioner Lythgoe reported that he has been getting a lot of calls regarding the fees for woody waste, as well as being stopped while in public. The Commission will be meeting with Joe Carter on Thursday to discuss this.

FIRE SERVICE AREA

Commissioner Weber reported that he met with Ed Betka and Matt Johnson on the 6th to discuss the proposed Cataract Fire Service Area. They discussed boundary issues, equipment and other issues.

RECYCLING

Commissioner Kirsch reported that he had a meeting with Maren Olsen and Scott Mendenhall on Tuesday morning. One of the topics of discussion was that MDC is considering ceasing their recycling program.

TRANSFER OF PROPERTY

Commissioner Lythgoe said that the Commission is in negotiations with the BLM and Forest Service on a couple issues, the firing range at High Ore and the transfer of buildings west of Boulder. We did get a draft deed for the Elkhorn Cemetery. Jackie Colombe asked if the county has specific plans for the buildings. Commissioner Lythgoe stated that we do; there have been several requests for more office space. One of the concerns that BLM had is that it would take a couple years for this to transpire. They want to make sure that the County takes responsibility for any environmental issues as it relates to the land. We are willing to do that, especially when we found what that issue was, potential oil and gas spills from chain saws being filled.

BEETLE KILL

Commissioner Kirsch reported that he met with Senator Tester's representatives Pam and Erik and prepared packets containing information about the beetle kill in the area, with photos and a DVD. The packets are to go to Senator Tester and President Obama.

SUBDIVISION REVIEW

REQUEST FOR EXTENSION OF PRELIMINARY PLAT APPROVAL – SHEEP MOUNTAIN 1, 2, 3 & 4 MINOR SUBDIVISIONS

Harold Stepper, County Planner, said that he thinks that they can handle all four of these at once. He presented his staff report. The developer is requesting a third extension of preliminary plat. Harold stated that they have met some of the conditions of approval, and some are yet to be met. They are currently working to construct the roads to meet Jefferson County road standards.

Harold recommended that the extension be granted.

Commissioner Weber moved to grant the time extension to the Sheep Mountain 1, 2, 3 and 4 subdivisions. Commissioner Kirsch seconded. The motion carried.

Commissioner Lythgoe noted that there was one other item in the letter from Jack Frazier which requested the extension. The letter questions why paying in full the amounts necessary to complete graveling of the roads, installing electrical and etc. can be approved instead of bonding, in order to obtain final plat. Commissioner Lythgoe asked Mike if this has been discussed. Mike stated that in conversations with Joe Schmaus, he indicated that they would like the bond to be for the actual costs of receipts for work, rather than the 1.5 times the estimated amount that Jefferson County requires. Commissioner Lythgoe asked if the bond is for the remaining work plus 50% or for the entire job plus 50%. Harold stated that what the County requires is that bids are obtained for the remaining work. Commissioner Weber stated that 1.5 times the cost is required due to the possibility of increases in the cost to get the work done.

Commissioner Weber said that as the letter is confusing and they are not here to explain, no action should be taken.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

RESOLUTION 22-2009 RESOLUTION OF INTENT TO FORM THE CATARACT FIRE SERVICE AREA

Ed Betka stated that he has circulated a petition and in about two weeks time they got the signatures of approximately 150 landowners. He has been working with the Commission, the County Attorney and the Clerk and Recorder to come up with a workable budget. He has also drawn up an equipment list. Commissioner Lythgoe asked what amount of funding they are estimating the fees will generate. Ed stated that the fees will generate approximately \$3,800, and they will have additional revenue streams as well. Commissioner Lythgoe asked if this is a private, non-profit organization. Are they registered or plan to register with the Secretary of State as a non-profit. Ed stated that the Cataract Volunteer Fire Company was formed under state statute as a non-profit. Commissioner Lythgoe asked Ed if he has a for-profit operation as well. Ed stated that he does, but that it is completely separate.

Commissioner Weber stated that one of the things discussed at the meeting with the County Attorney and Clerk and Recorder that it would make sense to take the boundary all the way to the county line on the west side and butt up to existing fire districts. Ed said that he agreed that this would be a good idea.

Commissioner Kirsch said that a proposal has been presented to the Commission to annex some adjacent territory into the Basin Fire District. He showed the map to Ed and asked if he had a problem with it. Ed said that he didn't have a problem with this, if they can get the required signatures. Jackie Colombe stated that Montana statute states that once the signatures have been obtained, the Commission can change the boundaries of a fire district. Because the petition has already gathered the signatures requesting fire protection, this can be done. Ed stated that the signatures he has gathered relate to the formation of the Cataract Fire Service Area.

Commissioner Kirsch asked Ed about his fire crew; he knows that several members could be working out of town. Ed stated that they have a total of approximately 18 people. During the day, they will have the same challenges as any other fire district. They could roll with a couple trucks with three or four people. Commissioner Kirsch asked that these fire trucks would revert back to county property. Ed stated that this is correct. Commissioner Kirsch stated that Ed's business is to fight wildfires and asked how he would do this if the equipment is with the county. Ed stated that the equipment that they are discussing is different from the private entity. They are two separate issues.

Commissioner Kirsch asked for a list of his fire fighters. Ed stated that they are on file with the Clerk and Recorder. Commissioner Kirsch said that he feels that they need to be residents of Jefferson County and live fairly close to Basin.

Commissioner Weber asked Ed if he has submitted the equipment list. Ed said that he has.

Delbert Bullock said that he doesn't see the need for another fire department. He feels that there are plenty of people around to fight fires if something should happen. Commissioner Lythgoe said that he can't answer that; however, with the condition of the forests as many fire departments as they can have makes sense to him. The other issue is that Montana statute allows Mr. Betka to do exactly what he is doing.

Commissioner Weber said that one of the things that they are trying to accomplish on a county level is that some time ago the county sent out maps showing the current fire districts and asked that people look to see if they are living within a fire district. If they aren't living in a fire district, they should consider petitioning to be annexed into an existing one. He explained that at this meeting, they are considering a resolution of intent to create a fire service area. If the resolution is adopted, each of the landowners within the proposed area will have the opportunity to protest the formation of the area.

Jackie Colombe stated that she wanted to make some comments regarding the proposed fire service area. She has been looking through state statute, and once the fire service area has been created, the Commission will have considerable leeway in the establishment of the service area. She feels that the \$1 fee on the cover letter on the petition may be misleading, as it is up to the Commission to set the fees for the service area. She understands that the people who signed the petition want fire protection. She has heard that when approached to sign the petition, that some were told that Basin Fire would not respond to fires outside of their district. This is entirely not true. These people have signed a petition stating that they want fire protection. She would ask that the Commission use those signatures to annex that adjacent territory into the existing Basin

fire district. Her other concern is with equipment. If the fire service area is advanced, the people who live in the area have the option of the Commission appointing or having elected officials. It will be just like any other fire department later, but in the beginning, Mr. Betka has his Cataract Volunteer Fire District trucks that he does use for personal business. He has contracts with the Forest Service. One of her suggestions from the get-go is that they request that the private business be called Cataract, to avoid confusion. She just wanted to close with the fact that it is the people asking for the service area; they want fire coverage. Basin Volunteer Fire Department would be willing to annex in several more miles around the district. If the people understand that they are going to be taxed anyway with the creation of the fire service area, going with an existing department would be a better option.

Commissioner Lythgoe stated that one of the issues that they have had in the past, when he sent that letter out to every resident in the county outlining the fire districts, there is a lot of land in Jefferson County that isn't covered. When they talked to some of the fire districts, not all were interested in annexing additional land into their district. For Mr. Betka to step up and be willing to protect an area in Jefferson County, they feel is entirely appropriate, and Montana law provides for that. The suggestion regarding the names is probably a good one. Jackie said that she doesn't have a problem with these people requesting fire protection; they have been pushing for that throughout the county for many years. She wants the people who sign the petition to be aware that they won't be getting service for \$1. She also wants them to be aware that they will need a governing board.

Commissioner Weber stated that the resolution of intent states that the Commission will seat the initial board of trustees and the board will be filled by election thereafter. Also, Ed did submit a budget, which is why the fee changed from \$1 per year. Commissioner Lythgoe stated that Bonnie was included in that meeting, and the petition is still legitimate, even with the modifications that have been made to the fees.

Ed stated that the ownership of Cataract Fire, the private company, will be changing hands on January 1st. Also, people need to be aware of the difference between the fees for a fire district and a fire service area.

DeDe Rhodes thanked the Commission for the opportunity to speak. She is the one who sent out the petition for the yellowed areas on the map. She originally sent out 37 in the mail. She has gotten a few of them back, and has also heard from several others in the yellowed area on the map and she has sent them petitions also. She met with Commissioner Kirsch and went over a few areas of concern with the fire service area. She is glad that Ed mentioned the fact that they are all working people. Fortunately, Basin has many people that work in the area, and she noted that the previous month there was a fire 10 miles outside Basin. Even with it being during the day, they had three trucks and one standing by. DeDe also stated that there has been an issue with fire protocol being followed; if protocol is not followed, people can be hurt.

Richard Rhodes stated that living out where he does, he can understand that people want and need fire protection and he is not opposed to those people getting fire protection. He would like time for there to be discussion of the proposed area and clear up any confusion that people may have.

He is currently the fire chief in Basin, and training, response time and membership have all increased recently. He feels that Basin is now adequate enough to expand their district. Commissioner Weber asked as chief of the Basin fire department, how much time he feels they will need to get an answer from the people in the yellowed area.

Richard stated that this really depends on the mail. He would like to see at least a month, to give time for conversation of which department people would like to go with. The letter that the commission is referring to went out several years ago, long before this issue came up. The people outside of the district knew that they would get a response to a fire even if they weren't in a covered area. Commissioner Lythgoe stated that on the other hand, when the letter went out several fire districts actively approached people and encouraged them to join their fire district. He asked again how much time the Commission gives people a chance to do that. The reason Richard is here today is because of Mr. Betka and what he is doing. He doesn't have a problem with this, but he doesn't believe that they should put Mr. Betka on hold because of this. Richard said that even though he is the fire chief, his main reason for coming to speak is that he is a landowner and several of his neighbors would prefer to be in the Basin fire district.

Jackie said that these people have signed a petition that they want fire coverage, and per Montana statute, the Commission can annex those people into an existing fire district. Commissioner Weber stated that as a Commissioner, him personally, he is not going to make decisions for Basin Fire that Basin Fire does not request. He has been on the record as saying that he isn't going to do anything for Basin Fire that isn't requested. He is not going to use a petition that was brought forward to create a fire service area to change Basin Fire's boundaries.

Commissioner Lythgoe stated that as a Commission, as it relates to zoning, as it relates to RIDs, those types of things, we don't force people into situations as some other counties do. If people want some thing to happen, they need to come to the Commission with a request and we will help facilitate that.

Bill Norris, Basin Fire Trustee, stated that his concern is that the equipment attached to the service area be available 365 days a year to fight fire in the service area, and not be at a fire in another state. Commissioner Lythgoe noted that Mr. Betka has already indicated that the equipment will be staying here. Ed stated that the equipment attached to the service area will stay in the area.

Commissioner Weber read two letters into the record, one from the Basin Fire District Trustees and one from Michelle LeTexier. (On file in the Clerk and Recorder's office.)

Commissioner Weber moved to move the resolution to the August 25 agenda. Commissioner Lythgoe seconded for discussion. Commissioner Weber stated that one of his big concerns is the gap in the middle of the proposed service area. He doesn't agree with the request for a buffer zone between the two areas. The Commission is on record as wanting everyone to be included in a district. Commissioner Lythgoe said that his question is if they adopt the resolution of intent at this meeting, couldn't these issues be dealt with during the time before the public hearing. Commissioner Weber said that as the boundaries are laid out in the resolution, he doesn't think that they can be changed after the fact.

The motion carried.

RESOLUTION 23-2009 SETTING SALARIES FOR ELECTED OFFICIALS

Commissioner Weber read the resolution as follows:

RESOLUTION 23-2009

SALARIES OF COUNTY OFFICIALS

WHEREAS, the County governing body shall, by Resolution, on or before August 1 of each year, adjust and uniformly fix the salaries of the County Clerk and Recorder, County Treasurer, County Superintendent of Schools, County Sheriff, and Clerk of District Court based upon the recommendations of the County Compensation Board provided for in §7-4-2503 (4), MCA, and

WHEREAS, the Compensation Board has recommended the following:

- ▮ That the Clerk and Recorder be compensated for election duties in the amount of \$2,000.00.
- ▮ That the Clerk and Recorder be compensated an additional \$3,000.00 for assessor duties.
- ▮ That the Sheriff be compensated an additional \$4,900.00 for coroner duties.
- ▮ That the Elected Officials receive a 2.0% COLA increase on the base salary of FY 2008-2009 for the 2009-2010 fiscal year.

NOW, THEREFORE, BE IT RESOLVED, that the base salaries for the elected officials of Jefferson County for fiscal year 2009-2010 be established as follows:

County Clerk & Recorder/Assessor/Election Administrator	\$50,278.42 (plus existing longevity)
County Treasurer	\$50,278.42 (plus existing longevity)
Clerk of District Court	\$50,278.42 (plus existing longevity)
Superintendent of Schools - half time	\$25,139.21 (plus existing longevity)
County Sheriff/Coroner	\$50,278.42 (plus existing longevity)
County Commissioners	\$50,278.42 (plus existing longevity)
County Attorney	\$99,203.65 (plus existing longevity)

August 11, 2009 minutes.wpd

BE IT FURTHER RESOLVED, that the County Commissioners and the Sheriff shall receive an additional \$2000.00, and the Superintendent of Schools will receive an additional \$1,000.00 (as a half-time position) as provided by law. The State Department of Justice pays a portion of the County Attorney's salary.

DATED this 11th day of August, 2009.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER

Commissioner Weber moved to adopt the resolution. Commissioner Kirsch seconded. The motion carried.

RESOLUTION 24-2009 SETTING SALARY FOR JUSTICE OF THE PEACE
Commissioner Weber read the resolution as follows:

RESOLUTION 24-2009

SALARY OF THE JUSTICE OF THE PEACE

WHEREAS, pursuant to §3-10-208, MCA, the Board of County Commissioners is required to set the salary for the Justice of the Peace by resolution; and

WHEREAS, §3-10-207, MCA requires that the salary of the Justice of the Peace be set at a level not less than the salary received by the District Clerk of Court; and

WHEREAS, §3-10-208, MCA, requires the office hours be designated by the Board of Commissioners by resolution;

NOW, THEREFORE, BE IT RESOLVED, that the Justice Court office shall be open for transaction business from 8:00 a.m. to 12:00 (noon) and from 1:00 p.m. to 5:00 p.m., every day of the year except holidays, Saturdays and Sundays.

BE IT FURTHER RESOLVED that the salary for the County Justice of the Peace for fiscal year 2009-2010 be set at \$50,278.42, plus existing longevity.

DATED this 11th day of August, 2009.

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER

Commissioner Lythgoe moved to adopt the resolution. Commissioner Kirsch seconded. The motion carried.

OPPORTUNITY FOR PUBLIC COMMENT

Commissioner Weber stated that as a matter of public comment, he would like to ask for the Solid Waste Board back.

Commissioner Weber moved to adjourn. Commissioner Lythgoe seconded.

MEETING ADJOURNED

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER